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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,663	10/02/2000	William E. LeBoeuf	J-2961	3408

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EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT PAPER NUMBER

1772

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

Advisory Action	Application No. 09/677,663	Applicant(s) LEBOEUF ET AL.	
	Examiner Alicia Chevalier	Art Unit 1772	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1,2,5,7-15,17-25,27,28,30-39,42-50,80,81,83-89 and 91-95.

Claim(s) withdrawn from consideration: 51-79 and 96-100.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 2. NOTE: Newly amended independent claim 1 raise(s) new issues requiring a novel search and further consideration because it now recites, "wherein the thermoplastic film layer is a thickness within the range of about 2 to about 5 mils". Also claim 14 has been amended to include " wherein the thermoplastic film has a thickness of at least about 5 mils," claim 25 now includes "wherein the first material has a thickness of at least about 5 mils," claim 39 now includes "wherein the first means has a thickness of at least about 5 mils," claim 80 now includes "wherein the first material has a thickness of at least about 5 mils," and claim 88 now includes "wherein the first layer has a thickness of at least about 5 mils," all of which raises new issues requiring a novel search and further consideration.

Continuation of 5. does NOT place the application in condition for allowance because:

Applicant's arguments in the response filed January 30, 2005 regarding the 35 U.S.C. 112, first paragraph rejection of record have been carefully considered but are deemed unpersuasive.

Applicant argues that the limitation "wherein substantially no portion of the film layer adjacent the holes ... extends into the liquid absorbent portion" has support in the drawings. The Examiner disagrees with this position since the figures do not clearly show the holes. Therefore, since the figures do not clearly show the claimed holes it is impossible to tell from the drawings if no portion of the film layer adjacent the holes therein extends into the liquid absorbent portion. Furthermore, the specification never specifically recites that the film layer absolutely cannot extend into the liquid absorbent portion.


Applicant's arguments in the response filed January 30, 2005 regarding the 35 U.S.C. 112, second paragraph rejections of record have been carefully considered but are deemed unpersuasive.

Applicant's arguments regarding the 112-second paragraph rejection are drawn to a proposed claim amendment, which is not being entered. However, it is noted if Applicant were to submit these changes in a request for reconsideration they would be entered and would overcome the 35 U.S.C. 112, second paragraph rejections of record.

Applicant's arguments in the response filed January 30, 2005 regarding the 35 U.S.C. 102 rejections of record have been carefully considered but are deemed unpersuasive.

Applicant's arguments are drawn to a proposed claim amendment, which is not being entered, i.e. film layer is a thickness. Therefore, the arguments are not commensurate in scope with the claims..

AE
4-15-04


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

4/16/04